UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2001/53
7 February 2001

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right to food

Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10

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Summary

The Commission on Human Rights, in its resolution 2000/10 of 17 April 2000, decided to appoint, for a period of three years, a special rapporteur on the right to food. The Special Rapporteur hereby submits his first report with the modest aim of presenting the Commission with a survey of the problems to be dealt with and a work schedule for the coming two years. The right to food is defined here as the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.

The Food and Agriculture Organization of the United Nations (FAO) estimates that 826 million people today are chronically and seriously undernourished, 34 million of whom live in the economically developed countries of the North. Most of the victims live in Asia - 515 million, or 24 per cent of the total population of the continent. However, if we look at the number of victims relative to the size of the population, sub-Saharan Africa is worst affected: there, 186 million women, men and children, or 34 per cent of the region's population, are permanently and seriously undernourished. Most of the victims suffer from what FAO calls "extreme hunger", with an average daily intake of 300 calories less than the minimum quantity for survival. The countries worst affected by extreme hunger are mostly in sub-Saharan Africa (18 countries), the Caribbean (Haiti) and Asia (Afghanistan, Bangladesh, the Democratic People's Republic of Korea, and Mongolia). Permanent and serious undernourishment and malnutrition cause early death and numerous diseases, which almost invariably entail serious disability: underdevelopment of brain cells in babies, blindness caused by vitamin A deficiency, etc. Chronic hunger and permanent, serious malnutrition can also be a hereditary curse: every year, tens of millions of seriously undernourished mothers give birth to tens of millions of seriously affected babies, referred to as "born crucified" by Régis Debray.

Action contre la Faim (Action against Hunger) (France) writes: "Many poor people around the world do not get enough to eat because food production is geared to cash payment." In many cases, the equation is simple: those who have money eat, and those without suffer from hunger and the ensuing disabilities and often die. Yet hunger and malnutrition are by no means dictated by fate or a curse of nature; they are manmade. To die of hunger is equivalent to being murdered, while chronic and serious undernourishment and persistent hunger are a violation of the fundamental right to life. This silent tragedy occurs daily in a world overflowing with riches. According to FAO, at the present stage of development of agricultural production, the Earth could feed 12 billion human beings properly, providing food equivalent to 2,700 calories a day for every individual. And yet there are only a little over 6 billion people currently living on the planet.

This report is structured as follows: first, it considers the definition of the right to food in legal terms, the origin of the right and recent developments. Next, it examines international instruments that refer to the right to food. It then discusses the question of what practical steps could be taken to encourage countries to introduce the right to food in their domestic legislation.

After that, it looks at some of the main economic and social problems that are holding up or preventing the realization of the right to food. The report ends with conclusions and recommendations.

As long ago as 1996, on the occasion of the World Food Summit organized by FAO, Kevin Watkins, of OXFAM wrote in The Guardian newspaper that "free trade will never feed the world - on the contrary". The Special Rapporteur identifies seven major economic obstacles that hinder or prevent the realization of the right to food:

(a) Problems linked to developments in world trade, particularly the agricultural policies of developed countries, as sanctioned by the World Trade Organization (WTO), which perpetuate malnutrition and hunger in the South;

(b) External-debt servicing and its impact on food security, including the structural adjustment programmes of the International Monetary Fund (IMF), which consistently aggravate undernourishment and malnutrition in debtor countries;

(c) Developments in biotechnology, including genetically modified plants, ownership of international patents by agribusinesses from the North and worldwide protection of those patents, hampering access to food and the availability of food;

(d) Wars and their destructive impact on food security;

(e) Corruption;

(f) Access to land and credit;

(g) Discrimination against women and its impact on the realization of the right to food.

Jean-Jacques Rousseau wrote: "In the relationship between the weak and the strong, it is liberty that oppresses and the law that liberates." It is in response to this principle that the Special Rapporteur proposes to cooperate closely with the Inter-Parliamentary Union and the national parliaments of the main countries concerned, in order to help promote domestic legislation on the right to food. He also proposes to establish a continuous working relationship with the main United Nations agencies and programmes in order to promote an approach to cooperation projects that is based on the right to food.

The Special Rapporteur recommends that the Commission confirm his mandate to respond to reliable information on violations of the right to food and, in particular, confirm that he is entitled to address urgent requests to Governments responsible for serious violations of the right to food. He recommends that the Commission make it clear that the term "food" covers not only solid foods but also the nutritional aspects of drinking water.

The Special Rapporteur believes that the right to food is of such theoretical and practical importance for the economic, social and cultural development of peoples and individuals that it should be the subject of a debate at the General Assembly of the United Nations.

Introduction

1. At its fifty-sixth session, the Commission on Human Rights adopted resolution 2000/10 of 17 April 2000, in which it decided, in order to respond fully to the necessity for an integrated and coordinated approach in the promotion and protection of the right to food, to appoint, for a period of three years, a special rapporteur on the right to food. It defined the Special Rapporteur's mandate as follows:

> "(a) To seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessity of eradicating hunger;
>
> (b) To establish cooperation with Governments, intergovernmental organizations, in particular the Food and Agriculture Organization of the United Nations, and non-governmental organizations, on the promotion and effective implementation of the right to food, and to make appropriate recommendations on the realization thereof, taking into consideration the work already done in this field throughout the United Nations system;
>
> (c) To identify emerging issues related to the right to food worldwide."

2. On 4 September 2000, the Commission appointed Mr. Jean Ziegler (Switzerland) as Special Rapporteur. According to his mandate, the Special Rapporteur had to submit an initial report at the fifty-seventh session of the Commission. For pressing technical reasons (translation, distribution, etc.), the Office of the United Nations High Commissioner for Human Rights set 10 December 2000 as the deadline for submission of the report, leaving only a few weeks for its preparation. As a result, the report contains no original research, but aims modestly at submitting for consideration by the Commission on Human Rights a survey of the problems to be dealt with and a work schedule for the coming two years.

3. In the view of the Commission, the right to food should be used as an instrument to deal with a totally unacceptable situation. According to FAO estimates, 826 million people today are chronically and seriously undernourished, 34 million of whom live in the economically developed countries of the North. Most of the victims live in Asia - 515 million, or 24 per cent of the total population of the continent. However, if we look at the number of victims relative to the size of the population, sub-Saharan Africa is worst affected: there, 186 million women, men and children, or 34 per cent of the region's population, are permanently and seriously undernourished. Most of the victims suffer from what FAO calls "extreme hunger", with an average daily intake of 300 calories less than the minimum quantity for survival. The countries worst affected by extreme hunger are mostly in sub-Saharan Africa (18 countries), the Caribbean (Haiti) and Asia (Afghanistan, Bangladesh, the Democratic People's Republic of Korea and Mongolia).[1]

4. Permanent and serious undernourishment and malnutrition cause early death and numerous diseases, which almost invariably entail serious disability: underdevelopment of brain cells in babies, blindness caused by vitamin A deficiency, etc.[2] Chronic hunger and permanent,

serious malnutrition can also be a hereditary curse: every year, tens of millions of seriously undernourished mothers give birth to tens of millions of seriously affected babies, referred to as "born crucified" by Régis Debray.[3]

5. Permanent, serious undernourishment and malnutrition prevent men and women from developing their full potential and becoming economically active, condemning them to a marginal social existence. They are decisive factors in the underdevelopment of many third world economies. This silent tragedy occurs daily in a world overflowing with riches. According to FAO, at the present stage of development of agricultural production, the Earth could feed 12 billion human beings properly, providing food equivalent to 2,700 calories a day for every individual. And yet, although there are only a little over 6 billion people in the world, every year 826 million people suffer from serious, chronic food deprivation.[4]

6. Action against Hunger (France) writes: "Many poor people around the world do not get enough to eat because food production is geared to cash payment."[5] In many cases, the equation is simple: those who have money eat, and those without suffer from hunger and ensuing disabilities and often die. Yet hunger and malnutrition are by no means dictated by fate or a curse of nature; they are manmade. To die of hunger is equivalent to being murdered, while chronic and serious undernourishment and persistent hunger are a violation of the fundamental right to life.

7. On average, 62 million people die each year, of whom probably 36 million (58 per cent) directly or indirectly as a result of nutritional deficiencies, infections, epidemics or diseases which attack the body when its resistance and immunity have been weakened by undernourishment and hunger. With regard to the extreme poverty that is rife in the world, the United Nations Development Programme (UNDP) estimates that at least 1.2 billion human beings are forced to live on an income of less than US$ 1 a day.[6]

8. Despite the clear definition by FAO of the area of reality addressed by the right to food, a dimension of human suffering is missing from the above description: the unbearable, nagging dread that tortures starving persons from the moment they wake up. How, during the day that lies ahead, will they be able to feed their family, provide nourishment for their children, and feed themselves? This dread may be even more terrible than the physical suffering and the many aches and diseases that strike an undernourished body.

9. From the beginning of September to mid-December, the Special Rapporteur set himself three tasks:

(a) First, to familiarize himself with the extensive literature on economic, social and cultural rights in general and the right to food in particular;

(b) Next, to begin as quickly as possible to implement paragraph 11 (b) of resolution 2000/10, that is, to establish cooperation with the main intergovernmental organizations, especially FAO, and the main non-governmental organizations (NGOs), undertaking trips to Rome, Berlin, Berne, Algiers and Paris for this purpose;

(c) Finally, to study a number of NGO reports condemning violations of the right to food by States.

10. This is not the place for an exhaustive list of the contacts already made. Thanks to the warm welcome he was given by the Director-General of FAO, the Special Rapporteur was able, in just a few days, to meet the top officials of that organization and those in charge of the World Food Programme (WFP), as well as the President and Vice-President of the International Fund for Agricultural Development (IFAD). The Special Rapporteur held his first talks with top officials from the International Labour Organization (ILO), WTO, the United Nations Conference on Trade and Development (UNCTAD), UNDP, the IMF, the World Bank and the International Committee of the Red Cross (ICRC), as well as the international secretariat of the 1994 United Nations Convention to Combat Desertification. He would at this point like to thank the High Commissioner for Human Rights and the Deputy High Commissioner, with whom he had an extremely useful talk.

11. Because of time constraints, the Special Rapporteur held exploratory talks only with the following NGOs: Action against Hunger (France), FoodFirst Information and Action Network (FIAN, Germany), the World Alliance for Nutrition and Human Rights (WANAHR, Norway, in the person of its representative in Rome), Antenna (Switzerland), the International Project on the Right to Food in Development (University of Oslo, Norway), the International Service for Human Rights (Switzerland) and the International Jacques Maritain Institute (Rome). It was FIAN, WANAHR and the International Jacques Maritain Institute that produced the excellent International Code of Conduct on the Human Right to Adequate Food (September 1997), which has since been countersigned by over 800 NGOs from around the world.[7]

12. Although this report is only by way of introduction, it cannot be restricted to a mere list of the legal problems arising from the realization of the right to food. It must also - albeit for the moment purely tentatively - take into account the macroeconomic conditions underlying the poor development of many societies in the South. From a methodological point of view, a study has to be made of the problems posed by the globalization of financial markets and the resulting weakening of the State's regulatory power. Moreover, the study of the macroeconomic conditions needed for the realization of the right to food falls within the terms of the mandate entrusted to the Special Rapporteur, who was also requested to "seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessity of eradicating hunger" (resolution 2000/10, para. 11 (a)). Several NGOs sent the Special Rapporteur reports on specific cases, requesting his intervention; after studying them, the Special Rapporteur decided to submit some of them to the Governments concerned.

13. The report is structured as follows: first, it considers the definition of the right to food in legal terms, the origin of the right and recent developments. Next, it examines international instruments that refer to the right to food. It then discusses the question of what practical steps could be taken to encourage countries to introduce the right to food in their domestic legislation. After that, it looks at some of the main economic and social problems that are holding up or preventing the realization of the right to food. The report ends with conclusions and recommendations.

I. DEFINITION AND HISTORY OF THE RIGHT TO FOOD

14. How is the right to food defined? There are several answers to this question, with minor variations, including the definition derived from the International Covenant on Economic, Social and Cultural Rights ("the Covenant") and from General Comment No. 12 adopted in May 1999 by the Committee on Economic, Social and Cultural Rights, the body responsible for monitoring the implementation of the Covenant.[8] The definition used in the remainder of this report is as follows: the right to food is the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.

15. The corollary of the right to food is food security. This is the definition given in the first paragraph of the World Food Summit Plan of Action: "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life." The parameters for food security vary with age: at birth, babies need 300 calories a day; between the ages of one and two, 1,000 calories a day; by the age of five, children need 1,600 calories a day. To maintain their strength every day, adults need between 2,000 and 2,700 calories, depending on where they live and what kind of work they do.[9]

16. A distinction should be drawn between two concepts: hunger or undernourishment on the one hand, and malnutrition on the other. Hunger or undernourishment refer to an insufficient supply or, at worst, a complete lack of calories. Malnutrition, on the other hand, is characterized by the lack or shortage, in food which otherwise provides sufficient calories, of micronutrients - chiefly vitamins (organic molecules) and minerals (inorganic molecules). These micronutrients are vital for the functioning of cells and especially of the nervous system. A child may be receiving sufficient calories but if it lacks micronutrients it will suffer from stunted growth, infections and other disabilities.[10] What the United Nations Children's Fund (UNICEF) calls "hidden hunger" is undernourishment and/or malnutrition between birth and the age of five, and it has disastrous effects: a child suffering from undernourishment and/or malnutrition in the first years of life will never recover. He cannot catch up later and will be disabled for life.[11]

17. The concept of the right to food is made up of different components. The first of these is the notion of adequate food, as set forth in article 11, paragraphs 1 and 2, of the Covenant. In its General Comment No. 12, the Committee on Economic, Social and Cultural Rights gives the following definition:

> "The right to adequate food is realized when every man, woman and child, alone or in community with others, [has] physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger ... even in times of natural or other disasters." (HRI/GEN/1/Rev.4, p. 58, para. 6).

18. Two other components of the concept of the right to food are the notions of adequacy and sustainability:

> "The concept of adequacy ... serves to underline a number of factors which must be taken into account in determining whether particular foods or diets that are accessible can be considered the most appropriate under given circumstances ... The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations. The precise meaning of 'adequacy' is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while 'sustainability' incorporates the notion of long-term availability and accessibility" (ibid., para. 7).

19. A further component is the notion of a diet:

> "Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation" (ibid., p. 59, para. 9).

20. According to the definition of the concept of the right to food, everyone has the right to food corresponding to their own particular culture:

> "Cultural or consumer acceptability implies the need also to take into account ... perceived non-nutrient-based values attached to food and food consumption and informed consumer concerns regarding the nature of accessible food supplies" (ibid., p. 59, para. 11).

21. Lastly, there is the component of accessibility:

> "Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised. Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to food" (ibid., para. 13).

22. In the history of ideas, two things are vital: the truth of a concept and its timing. How can the truth of a concept be defined? A concept is the intelligible unity of a perceptible plurality. The truth of a concept may therefore be measured by its greatest and best possible appropriateness to its subject. The problem of the "right time", on the other hand, is more complicated.

23. Kairos is a keyword in classical Greek philosophy. It means the "right time", the propitious moment when an idea - a proposition - is liable to be accepted by the collective

consciousness. There is an unexplained mystery in the history of ideas: an idea may be right and true for generations, sometimes centuries, without impinging on public debate or taking shape in a social movement, in other words in the collective consciousness. The idea remains unacceptable until that mysterious moment the Greeks call kairos.[12]

24. As far as the right to food is concerned, the "right time" came in November 1996 in Rome, at the World Food Summit organized by FAO. However, the right to food has been considered a human right since 1948, when it appeared in paragraph 1 of article 25 of the Universal Declaration of Human Rights in these terms:

> "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

The Universal Declaration dates from 1948; the World Food Summit from 1996. So it took almost half a century to produce the first coherent plan of action intended to make the right to food a reality. A similar case is that of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, which dates from 1948, while the Rome Statute of the International Criminal Court responsible for enforcing it was adopted only in 1998.

25. On 13 November 1996, the World Food Summit adopted the Rome Declaration on World Food Security, in which those attending the Summit undertook to implement, monitor and follow up the Summit Plan of Action at all levels, in cooperation with the international community (Commitment Seven). To this end, the following five objectives were defined:

> "Objective 7.1: To adopt actions within each country's national framework to enhance food security and enable the implementation of the commitments of the World Food Summit Plan of Action."
>
> "Objective 7.2: To improve subregional, regional and international cooperation and to mobilize, and optimize the use of, available resources to support national efforts for the earliest possible achievement of sustainable world food security."
>
> "Objective 7.3: To monitor actively the implementation of the World Food Summit Plan of Action."
>
> "Objective 7.4: To clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger, as stated in the International Covenant on Economic, Social and Cultural Rights and other relevant international and regional instruments, and to give particular attention to implementation and full and progressive realization of this right as a means of achieving food security for all."

> "Objective 7.5: To share responsibilities in achieving food security for all so that implementation of the World Food Summit Plan of Action takes place at the lowest possible level at which its purpose could be best achieved."

The new Summit convened to consider and assess the progress made will be held in Rome in November 2001.

26. All human beings, regardless of their sex, age, social status and ethnic or religious origin, have the right to food. The existence of this right gives rise to obligations for States. Asbjørn Eide, in his outstanding report on the right to adequate food,[13] sets out three main obligations that can be paraphrased as follows: to respect, protect and fulfil the right to food.

Respect

27. A State that respects the right to food of the people living in its territory should ensure that every individual has permanent access at all times to sufficient and adequate food, and should refrain from taking measures liable to deprive anyone of such access. An example of a practice that violates this right is when a Government at war with part of its own population deprives the part of the population it sees as "hostile" of access to food. Another example of non-observance of the right to food by a Government, described by the Special Rapporteur on the situation of human rights in the Sudan, is the tragedy of Bar-el-Ghazal, where tens of thousands of people died of starvation in 1998. Muraheleen militia supported by the Government in Khartoum pursued a counter-insurgency strategy characterized (according to the Special Rapporteur) by the following human rights violations: looting of grain, abduction of women and children as spoils of war, burning of crops and homes, killing of civilians and cattle-rustling. The Special Rapporteur backs the conclusions of an NGO working in the region that "but for these human rights abuses, there would have been no famine in the Sudan in 1998" (E/CN.4/1999/38/Add.1, paras. 49 and 50). The case cited is a clear violation of the obligation to respect the right to food.

Protection

28. The second obligation that States must meet is to protect the right to food. Under this obligation, they must ensure that individuals and companies do not deprive people of permanent access to adequate and sufficient food. The Permanent Representative of Algeria to the United Nations Office at Geneva, and Chairman of the Working Group on the Right to Development, maintains that the right to food is what might be termed a "matrix" right, that is, it is a "matrix" for other rights such as the right to development.[14] In most cases, access to food is a question of affordability, and therefore income. This second obligation imposes a number of duties on the State, such as the duty to promote production, redistributive taxation and social security or to combat corruption.

29. The question of agrarian reform is particularly important in this respect. Several social movements around the world are currently campaigning to force their Governments to fulfil this second obligation. One of them is the Landless Rural Workers' Movement (MST) in Brazil, a country where 1 per cent of landowners own 46 per cent of all farmland and where 4.5 million peasant families have no land at all. According to the Secretary-General

of UNCTAD, Mr. Rubens Ricupero, there has been no proper agrarian reform in Brazil since Portuguese colonization in the sixteenth century.[15] MST, which was founded in 1984, peacefully reclaims and occupies arable lands that are not being farmed. Since 1984, it has reclaimed over 8 million hectares of uncultivated lands and settled more than 300,000 people there. Its production and marketing cooperatives are independent and provide schooling for children and adults, employing 1,000 teachers. MST is campaigning to persuade the Brazilian Government to "protect" the right to food.[16]

Fulfilment

30. The State's third obligation is to "fulfil" the right to food. General Comment No. 12 summarizes this obligation as follows:

> "... whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) [the right to food] directly" (HRI/GEN/1/Rev.4, p. 60, para. 15).

An appeal by a State for international humanitarian aid, when it is itself unable to guarantee the population's right to food, comes under this third obligation. States which, through neglect or misplaced national pride, make no such appeal or deliberately delay in making it (as in the case of Ethiopia under the dictatorship of Haile Menguistu in the early 1980s) are violating this obligation. To take another example, a terrible famine was ravaging the Democratic People's Republic of Korea in the early 1990s: WFP and several NGOs made a massive effort there, especially after 1995, but it gradually became clear that most of the international aid was being diverted by the army, the secret services and the Government. The NGO Action against Hunger stopped its aid at that point because of "lack of access to the victims of hunger".[17]

31. The three obligations placed on States by virtue of the existence of the right to food also apply to intergovernmental organizations, particularly the United Nations. There can be little doubt that the Security Council, in subjecting the Iraqi people to a harsh economic embargo since 1991, is in clear violation of its obligation to respect the right to food of people in Iraq. This is the opinion of, among others, Denis Halliday, a former Assistant Secretary-General of the United Nations and former Humanitarian Coordinator for Iraq,[18] and of Mr. Marc Bossuyt, in his working paper on the adverse consequences of economic sanctions on the enjoyment of human rights, submitted to the Sub-Commission on the Promotion and Protection of Human Rights in 2000 (E/CN.4/Sub.2/2000/33, paras. 59-73).

32. It is reasonable to believe that the right to food includes not only the right to solid food, but also the right to liquid nourishment and to drinking water. Moreover, the term "food" is not defined in a restrictive sense anywhere in the texts cited (resolutions, treaties, etc.). Could it really refer only to solid food? Should "food" then also include liquid or semi-liquid nourishment and so on? The question is absurd anyway. It is obvious that the right to food must include the consubstantial right to drinking water.

33. Like solid food, drinking water is in short supply for hundreds of millions of people in the world. To quote a few statistics: over a billion people in the world are not connected to a modern water supply system; some 2.4 billion people do not have acceptable sanitation

arrangements; 4 billion cases of diarrhoea are recorded every year in the world, 2.2 million of which are fatal, mostly in the case of children. Richard Jolly, Chairman of the Water Supply and Sanitation Collaborative Council (WSSCC), has estimated the cost of providing every person with access to drinking water that meets public health requirements by the year 2015 at US$ 10 billion a year; this is equivalent to the amount spent on ice creams every year by Europeans or the amount people in the United States spend on feeding their pets.[19]

34. The Commission on Human Rights does not give a restrictive definition of the term "food" anywhere in its resolution 2000/10, including paragraph 11. As it did not provide its own definition, we must assume the term is used in its ordinary meaning, which does not distinguish clearly between solid, liquid, semi-solid and semi-liquid foods. As the Sub-Commission has just recommended the appointment of a special rapporteur on the right to drinking water and sanitation,[20] it should extend the mandate of the Special Rapporteur on the right to food to the nutritional aspects of drinking water.

II. INTERNATIONAL INSTRUMENTS

35. The Special Rapporteur's mandate specifically calls on him to take into consideration the work already done in the field of the right to food throughout the United Nations system (para. 11 (b)). A quick analysis of the origin of the norm is therefore needed. The right to food has essentially been developed as a treaty right; it is embodied mainly in the two International Covenants and has been refined by the often subtle and creative work of the committees set up by States to monitor the implementation of the Covenants. However, other international and regional instruments are also relevant to our analysis.

A. International humanitarian law

36. International humanitarian law preceded the Covenants. It is fascinating to watch the birth of a new and original norm in the collective consciousness of nations. The ICRC was the first organization to systematically defend and develop the concept of humanitarian law: founded in the aftermath of the Battle of Solferino in 1859, it is today the promoter and guardian of this law. From a theoretical point of view, mention should also be made of the crucial role played by Fedor Fedorovich Martens, a philosopher of law and the Russian Government's legal expert at the International Peace Conference held in The Hague in 1899, and his assistant, Andre Mandelstam. Their theory was as follows: humanitarian law has its roots in "consciousness of the world", also called "public consciousness" or, more specifically, "consciousness of identity", as defined by Ludwig Feuerbach, the German philosopher who wrote:

> "Consciousness in its strictest sense exists only for a being that has as its object its own species and its own essence. To be endowed with consciousness is to be endowed with science (and so with law). Science is the consciousness of species. However, only a being that has as its object its own species, its own essence, is able to take as its object, in their essential meanings, things and beings other than itself."[21]

Consciousness of identity is the foundation of humanitarian law. The first Geneva Convention of 1864, put forward for signature by Henry Dunant, was based on the following principle: the

life of a wounded man must be saved; he is your adversary but he is also your fellow-man, he is like you; prisoners must be given food and water. The "consciousness of the world", which comes from the spontaneous perception of the identity of all beings, requires it.[22]

37. The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), stipulates, in article 14:

> "Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works."

38. The core of international humanitarian law is contained in the four Geneva Conventions of 1949 and the two additional Protocols of 1977. The same basic principles govern all these instruments: military operations may only be carried out against military targets; the forced displacement of populations, which is a major cause of famine, is prohibited; and the vital needs of the civilian population - including food, obviously - must be met in all circumstances.

B. The United Nations

39. The development of the right to food should now be considered through an analysis of various instruments adopted within the framework of the United Nations.

1. International Covenant on Economic, Social and Cultural Rights

40. This international instrument, which has been ratified by 142 States, deals with the right to food more comprehensively than any other treaty. In article 11, paragraph 1, States parties recognize "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". In paragraph 2 of the same article, they recognize that measures may be needed to guarantee "the fundamental right of everyone to be free from hunger". States parties shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

> "(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of resources;
>
> (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need."

41. As pointed out in its General Comment No. 12 by the Committee on Economic, Social and Cultural Rights, the body responsible for monitoring implementation of the Covenant,

"The human right to adequate food is of crucial importance for the enjoyment of all rights. It applies to everyone ..." (HRI/GEN/1/Rev.4, p. 57, para. 1). So the words "for himself and his family" in article 11, paragraph 1, do not imply limitations on the applicability of this right in the case of individuals or in the case of households headed by a woman.

42. Article 1 of the International Covenant on Economic, Social and Cultural Rights sets forth the right of peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development. For this purpose, "All peoples may ... freely dispose of their natural wealth and resources" and, consequently, "In no case may a people be deprived of its own means of subsistence (para. 2)."[23]

2. International Covenant on Civil and Political Rights

43. The right to life is enshrined in article 6 of this Covenant, which has been ratified by 145 States. The Human Rights Committee, the body responsible for monitoring implementation of the Covenant, insists that this right should not be interpreted in a restrictive way. On the contrary, the required protection of the right to life obliges States parties to take positive steps in at least two areas, which go much further than the "individual" dimension of the right. In its General Comment No. 6 on article 6, the Committee considers that "States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life" (HRI/GEN/1/Rev.4, p. 85, para. 2). States parties are required to take positive steps "to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics" (ibid., p. 86, para. 5).

3. Universal Declaration on the Eradication of Hunger and Malnutrition

44. The first World Food Conference was held in Rome in November 1974; on 16 November, it adopted a declaration,[24] in which it solemnly declared that:

> "1. Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties. Society today already possesses sufficient resources, organizational ability and technology and hence the competence to achieve this objective. Accordingly, the eradication of hunger is a common objective of all the countries of the international community, especially of the developed countries and others in a position to help."

45. The Declaration goes on to say that it is a fundamental responsibility of Governments "to work together for higher food production and a more equitable and efficient distribution of food between countries and within countries" (para. 2). Moreover, priority should be given to attacking "chronic malnutrition and deficiency diseases among the vulnerable and lower income groups" (para. 2). In sum, "As it is the common responsibility of the entire international community to ensure the availability at all times of adequate world supplies of basic food-stuffs by way of appropriate reserves, including emergency reserves, all countries should cooperate in the establishment of an effective system of world food security ..." (para. 12).

4. Thematic instruments

46. With regard to treaty-based and thematic international law, attention is drawn to:

(a) The prohibition of racial discrimination in the enjoyment of, inter alia, economic, social and cultural rights;[25]

(b) The prohibition of discrimination against women in the enjoyment of these rights;[26]

(c) The prohibition of acts of genocide by "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part";[27]

(d) The prohibition of crimes of apartheid "committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them", including by the "deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part" or by taking any "legislative measures and other measures calculated to prevent a racial group or groups from participation in the ... economic ... life of the country and the deliberate creation of conditions preventing the full development of such a group or groups ...".[28]

5. Convention on the Rights of the Child

47. In implementing this instrument, which has been ratified by no less than 191 States, States parties must:

(a) Take appropriate measures to combat disease and malnutrition, including through the provision of nutritious foods and drinking water (art. 24 (2) (c));

(b) Ensure that parents and children are informed about child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation (art. 24 (2) (e));

(c) Recognize the right of every child to a standard of living adequate for the child's physical development (art. 27 (1)) by providing material assistance with regard to nutrition (art. 27 (3));

(d) Secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child (art. 27 (4)); and

(e) Protect the child from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child's education, or to be harmful to the child's health or development (art. 32 (1)).

6. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

48. This instrument was adopted in 1990 but has not yet entered into force as it has been ratified by only 10 States. It recognizes equal treatment for nationals and migrant workers and their families with regard to the enjoyment of economic, social and cultural rights; in particular, it establishes the right of migrant workers to "transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State" (art. 47 (1)).

7. ILO Conventions

49. Several conventions indirectly protect the right to adequate food, in that they provide a system for minimum wages,[29] social security and welfare,[30] the banning of forced labour,[31] the rights of indigenous peoples[32] and the minimum age at which children can enter employment.[33]

C. Regional treaty law

50. Alongside international treaty law, developed chiefly within the framework of the United Nations, there is also regional treaty law. Attention is drawn here to two instruments. The first is the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the "Protocol of San Salvador") of 1988, which has been ratified by 11 States. Article 12 of the Protocol stipulates that: "Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development". The second instrument is the European Social Charter, as revised in 1996. In article 4 (1), the Charter recognizes "the right of workers to a remuneration such as will give them and their families a decent standard of living".

51. To sum up chapter II, it may be said that the right to adequate food is a human right recognized in general terms in the framework of both universal and regional international treaty law. Sometimes it is encompassed by the more generic right to an adequate standard of living. Expressed more indirectly, it becomes the right "to be free from hunger", a right that should be enjoyed at all times. At a collective level, the right of peoples to self-determination and to free use of their own natural resources, and international support by rich countries for the poorest countries are equally essential for the realization of the right to food.[34]

III. DOMESTIC LEGISLATION

52. Twenty States in the world have Constitutions which, more or less explicitly and in more or less detail, refer to the right to food or a related norm.[35] One of the most explicit norms is the one contained in the Cuban Constitution, which stipulates in its article 8: " ... by the power of the people and by the will of the people ... no child shall be deprived of schooling, food or housing." No State, however, has yet passed consistent domestic laws ensuring effective protection of the right to food for its population, and especially the most vulnerable groups, such as women, children and ethnic minorities.

53. What does effective protection of the individual and collective right to food by domestic law mean? The Committee on Economic, Social and Cultural Rights gives an answer in its General Comment No. 12, in the following terms: "States should consider the adoption of a framework law as a major instrument in the implementation of the national strategy concerning the right to food. The framework law should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring, as well as possible recourse procedures. In developing the benchmarks and framework legislation, States parties should actively involve civil society organizations." (HRI/GEN/1/Rev.4, pp. 62-63, para. 29.)

54. Every right must give rise to a remedy. The right to food, to be effective, is no exception. As stated again in General Comment No. 12:

> "Any person or group who is a victim of a violation of the right to adequate food should have access to effective judicial or other appropriate remedies at both national and international levels. All victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition ...
>
> The incorporation in the domestic legal order of international instruments recognizing the right to food, or recognition of their applicability, can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases. Courts would then be empowered to adjudicate violations of the core content of the right to food by direct reference to obligations under the Covenant.
>
> Judges and other members of the legal profession are invited to pay greater attention to violations of the right to food in the exercise of their functions.
>
> States parties should respect and protect the work of human rights advocates and other members of civil society who assist vulnerable groups in the realization of their right to adequate food." (Ibid., p. 63, paras. 32-35).

55. One component of the Special Rapporteur's mandate concerns assisting the drafting of domestic legislation on the right to food. How should the Special Rapporteur go about this? Several approaches are possible, none of which exclude the others.

56. National conferences appear to be a useful way for Governments to set the scene for preparing national action plans to combat hunger. An example of this approach was provided recently by the People's Democratic Republic of Algeria. From 28 to 30 October 2000, the Algerian Government organized the first National Conference to Combat Poverty and Exclusion, under the direction of the President of the Republic. All the United Nations agencies and main international NGOs represented in Algeria (and in the Maghreb in general) took part in the

conference, both in its preparation and in its workshops and plenary meetings. All ministers, most deputies and senators, a great many high officials, especially the departmental prefects - the Walis - and their main assistants, as well as many representatives of civil society took an active part in the debates. The conference provided an opportunity to draw up a realistic picture of the social situation and hence also the situation regarding food in Algeria. Conferences such as these may be considered a useful preliminary to any parliamentary debate on domestic legislation concerning the right to food. No parliament is effective unless it is supported by active, well-informed public opinion.

57. Many Governments have a natural tendency towards apathy or worse still disguise and lack of transparency. No Government in the world ever likes to admit publicly to the food problems, supply difficulties, or diseases and deficiencies that affect part of its population. The public authorities have to show determination and courage to convene a national conference. In October 2000, the Algerian Government showed such courage by adopting a national plan of action to combat poverty and exclusion.

58. The Commission on Human Rights could be described as the moral conscience of the United Nations system. In its resolution 2000/10, it requests the Special Rapporteur to deal with "the realization of the right to food". The Special Rapporteur has received information from a number of NGOs reporting particularly blatant cases of violations of the right to food in several countries. After studying these reports, he requested further details and clarifications. He then wrote to the Governments concerned, drawing their attention to the allegations made against them and requesting substantiated replies. The allegations concerned Honduras, Myanmar and Palestine in particular. The Special Rapporteur will be able to report to the Commission once he has received replies from the Governments concerned.

59. Over the next two years, the Special Rapporteur would like to be invited by those Governments to visit their countries in order to assist the authorities, institutions and social partners to promote domestic legislation and national action plans in favour of the right to food.

60. What is meant exactly by domestic legislation? General Comment No. 12 refers to the expression "framework law" (see paragraph 52 above). The Special Rapporteur believes it would be more realistic to adopt a different approach. Economic, social, cultural and hence nutritional situations tend to be extremely varied and change from one country to another. Trying to adopt a framework law would certainly run into almost insurmountable obstacles. There would be the risk of a framework law falling, either alternately or simultaneously, into several temptations: either it might fail to apprehend or to settle the problems experienced by people in their everyday lives or it might promulgate legislative solutions which are ill-adapted to real social experience, or else it might impose standards which the State would be practically incapable of enforcing.

61. Much more effective than passing a framework law would be the following approach: the Special Rapporteur would help Governments, institutions and social partners identify social situations, customs and government strategies which prevent the full realization of the right to food. In a predominately rural country, the main obstacle might be its system of unequal land

rights; in another case, it might be the very low income of part of the population (which might be remedied by redistributive taxation and subsidies for basic foods), etc. Depending on the type of social situation he encountered, the Special Rapporteur might then advocate selected legislative solutions, especially with a view to eliminating economic, social and cultural obstacles in each case to realization of the right to food.

62. The Special Rapporteur will nevertheless try to supply national and regional parliaments with a suitable handbook outlining basic, unchanging legislative procedures (such as matters relating to competent jurisdiction, appeals, etc.) that need to be considered in relation to the right to food. This handbook would be designed along the lines of the practical and very didactic Handbook for Parliamentarians on the general principles of and respect for international humanitarian law, jointly published by the International Committee of the Red Cross (ICRC) and the Inter-Parliamentary Union.[36]

63. In Geneva, the Special Rapporteur met the Secretary-General of the Inter-Parliamentary Union (IPU). The IPU, which was founded in 1889, is not only one of the oldest intergovernmental organizations in the world but also one of the most dynamic and most efficient. Since its 104th Inter-Parliamentary Conference (Jakarta, 2000), it has comprised 140 national parliaments and five associated regional parliamentary organizations. The IPU has signed cooperation agreements with practically all the leading United Nations agencies, and with the Office of the High Commissioner for Human Rights. Its prime objective is to strengthen democratic institutions and to promote democratic principles in national political systems.[37]

64. Parliaments act through normative action and the exchange of information. The IPU provides a great deal of very competent international assistance to parliamentarians. Many of its activities have a didactic purpose and take place on several levels. The Inter-Parliamentary Conference, which meets twice a year, is attended by some 700 parliamentarians and constitutes the IPU's main organ of political expression. Meetings of women parliamentarians chiefly discuss the drafting and implementation of laws to combat social, economic and cultural discrimination against women.

65. The IPU's technical cooperation programme, its working meetings, either in Geneva or at the national headquarters of member Parliaments, and the training courses organized by the IPU for Presidents, women parliamentarians, Secretaries-General, parliamentary assistants and deputies, would be an ideal setting to promote domestic legislation on the right to food as envisaged in General Comment No. 12. Subject to the Commission's approval, the IPU and the Special Rapporteur could draw up a specific programme for 2001-2002; the Special Rapporteur would then have the opportunity to promote the right to food at all meetings, international and national seminars or technical assistance projects organized by the IPU for national and international parliamentarians.

66. In his task of assisting domestic legislation and national action plans, the Special Rapporteur will call on the specialized agencies, especially FAO. In the fulfilment of his mandate, the cooperation of civil society (through social movements, NGOs, trade unions, political parties, churches, humanitarian organizations, universities, etc.) will also be essential.

IV. ECONOMIC AND SOCIAL OBSTACLES

67. A kind of epistemological breakthrough has occurred recently in the views held concerning the right to food by some of the major NGOs. Instead of merely planning and implementing bilateral or multilateral aid projects for food security and the realization of the right to food, some of them are now suggesting that there is an urgent need to change the "framework conditions" of development. This involvement of NGOs in efforts to change the macroeconomic conditions of development constitutes an event of the greatest theoretical and practical importance.

68. Here are some examples:

(a) The report on the First International Encounter on the Right to Food and Nutrition (Oslo, 18-21 June 2000) draws this conclusion: The implementation of the recommendations of the Economic and Social Council, especially those concerning the right to food, depend primarily on the existence of a strong State, having the necessary resources.[38] In other words, the globalization of financial markets and the almost total liberalization of trade (of goods, patents, services, etc.) seriously weaken States and constitute an immediate danger for the ushering in and realization of the right to food;

(b) In its review Entwicklung, the FoodFirst Information and Action Network (FIAN) is severe in its criticism: "The goal of traditional aid for projects, particularly those intended to establish food security, was never to bring about macroeconomic changes [...]. It is an illusion to think that economic and social progress can be achieved in an isolated sector [...]. The great failure of traditional development cooperation was due to the fact that not enough importance was given to politically imposed conditions."[39] (Translated.);

(c) In October 2000, Action against Hunger for the third time published its book Géopolitique de la faim, which is altogether remarkable for its theoretical perspicacity.[40] For the first time, the empirical analysis of the main countries where the organization has been working is preceded by a long theoretical preamble entitled "Ensuring the protection of populations, a dilemma for humanitarian work". This introduction exactly reflects the same epistemological breakthrough as the aforementioned analyses made by the Oslo meeting and the FIAN, namely the realization that combating the wild globalization of markets and the gradual disappearance of State governance is a precondition for restoring collective security mechanisms. According to Action against Hunger, it is States - that is enfeebled States - that are to blame for the United Nations "tragic shortage of means to fulfil its mission";[41]

All three of these organizations assert a basic truth: unless the macroeconomic conditions that determine the poor state of development of societies in the southern hemisphere are viewed critically, any discussion regarding the measures needed to guarantee the right to food will remain purely academic.

69. Which, then, are the main macroeconomic obstacles that hinder or prevent the realization of the right to food, in the practice of States and intergovernmental organizations? The Special Rapporteur has identified seven major problem areas which directly affect the realization of the

right to food. In relation to States, these problems are either exogenous in origin, or endogenous. As he is only beginning his mandate, the Rapporteur, for the time being, will restrict himself to a simple list; this is not an analysis of the problems, but a simple inventory:

(a) Problems linked to developments in world trade;

(b) External debt servicing and its impact on food security;

(c) Developments in biotechnology and their impact on access to food and its availability and security;

(d) Wars and their destructive impact on food security;

(e) Corruption;

(f) Access to land and credit;

(g) Discrimination against women and its impact on the realization of the right to food.

70. The impact of international trade on the food situation of poor countries is both complex and contradictory. It is generally considered that while self-sufficiency in food is not necessary for developed countries - since they have sufficient means to buy what they need on world markets - but it is nevertheless desirable for poor countries. Total agricultural subsidies in OECD countries (i.e. the wealthy countries) amounted to US$ 335 billion in 1998, while US$ 251 billion was paid over to producers.[42] These subsidies are due to increase still further in 2000. Their impact is twofold: they encourage self-sufficiency but at the same time provide public support for exports. The resulting lower prices of food on the world market have contradictory effects for third world countries: while it allows them to import the missing food supplies more cheaply, it also discourages domestic production. Another problem is the persistence of protectionist agricultural policies on the part of northern countries, which hamper access to northern markets for southern produce. For all these reasons, there is an urgent need to take a critical look at the implications of international trade (and particularly at the policy of the WTO and structural adjustment programmes) for the right to food.

71. The Special Rapporteur believes that special attention should be paid to the problem of debt servicing for poor countries. As was recognized in the final declarations of the 1996 World Food Summit and by the current Jubilee 2000 campaign - a broad international coalition aimed at eliminating the debt of the poorest third world countries - the crushing debt burden directly affects the realization of the right to food.[43] In the mid-1980s, the President of Tanzania, Julius Nyerere, summed up the situation in these words: "Should we really let our children starve so that we can pay our debts?"[44]

72. According to the Jubilee 2000 campaign, the debt of the 41 most indebted countries totals US$ 206 billion, which is equivalent to 124 per cent of the gross national product of the countries concerned. These countries spend much more on servicing their debt than on their social services. Most of them devote more than 20 per cent of their budget each year to debt

servicing.[45] Since 1990, gross domestic product growth for the 48 poorest countries in the world has been less than 1 per cent per annum, which prevents any growth in household savings. The United Nations Conference on Trade and Development (UNCTAD)[46] reckons that public aid, in real per capita value, given by the rich countries to the 48 poorest countries fell by 45 per cent between 1990 and 2000. In the same period, the influx of private long-term foreign capital per capita in real terms fell by 30 per cent. In addition, the structural adjustment plans imposed by the IMF and regional banks in order to balance capital accounts can aggravate the food situation, particularly when these plans call for the elimination of public subsidies for basic foods intended to help the poorest social sectors.

73. There has been increasing public debate about food industries, biotechnology and genetically modified plants. These developments have had a direct impact on access to food, the suitability of food and public health (e.g. the relation between Creutzfeldt-Jakob disease and "mad cow" meat consumption). These problems should be looked at from the angle of the right to food. The use of genetically modified organisms (GMOs)[47] in agriculture arouses fears regarding their possible effects on the human body. The right to food implies access to proper food, that it be healthy food, free of any harmful substance and free of harmful consequences for the development of the human body and the reproduction of its vital forces. The scientific community is at present showing considerable interest in the right to food.[48] There is also the problem of patents taken out by northern multinationals on plants growing in the south and the related question of the universal protection given to such patents by the WTO. The right to food implies not only access to food, but also access to the means of producing it. International patents held by northern multinationals, combined with their universal protection and Trade-Related Aspects of Intellectual Property Rights (TRIPS), deprive poor farmers of access to the means of growing their food.[49]

74. Wars constitute a major obstacle to the fulfilment to the right to food. In wartime, the supply of food and access to food become difficult, if not impossible. Crops are either destroyed or abandoned. In practically all countries affected by war, per capita production collapses. Despite prohibitions contained in international humanitarian law, belligerents increasingly use the food weapon to terrorize civilian populations. One example of this occurred when, from April 1992 to June 1995, units of the Yugoslav federal army and Serb militias besieged the town of Sarajevo, imposing a food blockage and causing thousands of deaths.[50] Another problem is that in many countries at war, food security worsens because governments use their resources primarily to buy weapons. In 1994, for instance, when Ethiopia was desolated by famine, the Addis Ababa Government was using 46 per cent of its budget to purchase arms.[51] Yet another problem is that when wars proliferate, international humanitarian aid tends to be unevenly distributed. In Kosovo in 1999, for instance, nobody went hungry, but that same year in Angola more than 20 per cent of displaced children suffered from serious malnutrition.[52] In the third world, in wartime, many more people are killed by famine than by bullets and bombs. Two examples are striking in this respect. In 1992, in Somalia, hundreds of thousands of children under five died of hunger or diseases related to malnutrition. And between August 1998 and May 2000, 1.7 million persons died in the eastern part of the Democratic Republic of the Congo, one third of whom were children under five years old.[53]

75. The Declaration of the World Food Summit (Rome, 13-17 November 1996) expressly mentions corruption as being one of the causes of food insecurity. Corruption can take many

forms, from the simple bribe to organized crime. It is prevalent in the northern hemisphere like in the south. But it is in the poorest countries that the social consequences, and particularly those affecting food security, are the most serious. For example, in November 2000, the Government of Chad appealed to the international community for aid against impending famine. At the time, the World Bank was handing over to the Chadian Government the sum of 17 billion CFA francs (roughly 42.5 million Swiss francs or US$ 25 million) under an oil project to combat poverty. Now the parliamentary opposition is accusing the Government of having squandered most of the money through widespread corruption and arms purchases.[54] The Special Rapporteur will be following closely the efforts to achieve transparency and to combat corruption by the World Bank and other intergovernmental and non-governmental organizations, such as Transparency International and Business Crime Control.

76. There is no doubt that allowing as many farmers as possible access to land and credit is beneficial to food security, not only for the families directly concerned, but for the country as a whole. The World Bank has analysed one of the few recent non-violent experiments in agrarian reform, namely Operation Barga, which took place in the Indian State of West Bengal in the 1970s and 1980s. Tens of thousands of landless farmers gained access to property and credit. The reform led to a net 18 per cent increase in agricultural output in West Bengal.[55] The chapters of the World Bank's Report 2000/2001 devoted to methods of combating inequality and extreme poverty, place particular emphasis on agrarian reform and access to landed property in rural areas.[56] The work of Amartya Sen has exerted a very strong influence on this whole issue.[57] In his view, access to landed property and a democratic system of government are the two main instruments of development of predominantly rural societies.

77. Some interesting land reform experiments are currently being tried out in the Philippines, Zimbabwe and South Africa. Especially noteworthy, too, are the innovative solutions of the Landless Rural Workers' Movement (Movimento dos Trabalhadores Rurais Sem Terra or MST) in Brazil and the Movimiento Zapatista in the Mexican State of Chiapas. The Special Rapporteur will follow all these experiments closely and will analyse their results from the angle of the right to food.

78. One of the main obstacles to the realization of the right to food is the social, economic and political discrimination experienced by women in many societies. Women and girls are often among the first to suffer from famine and chronic malnutrition. But it is also they who pass on the mutilations of malnutrition from one generation to the next. The so-called "life-cycle" analytical method or approach gives a more accurate view of the role played by women (see Mr. Eide's report - E/CN.4/Sub.2/1999/12, paras. 19-22). For example, in North Korea, the famine of the 1990s destroyed between 12 and 15 per cent of the total population (estimated at 23 million persons). However, the social damage was much higher if one considers the fall-off in the fertility curve caused by famine. The Fourth Report on the World Nutrition Situation of the United Nations ACC/SCN states that some 30 million infants are born each year in developing countries with impaired growth due to poor nutrition during foetal life.[58]

79. In its 1998 report on The State of the World's Children, UNICEF, referring back to a 1996 ACC/SCN study, gives a comparative study between three third world countries. With

regard to nutrition and the status of women, for example, in Pakistan widespread discrimination against girls and women is behind high levels of illiteracy among women and girls, a very high fertility rate and lower female life expectancy. "Child malnutrition rates in Pakistan are among the highest in the world, as is the proportion of low-birthweight infants, at 25 per cent. [...] On the other hand, women in Thailand, where nutrition has improved remarkably in the last two decades, have very high literacy [...] and a strong place in social and household-level decision-making." Moreover, it is estimated that in Thailand "malnutrition of under-five children fell from about 51 per cent in 1982 [...] to about 19 per cent in 1990, and that severe malnutrition virtually disappeared during that period". It is also known that increased expenditure in the social sector improves nutrition. In Sri Lanka, for example, "increases in spending on public health services are more strongly associated with reduced infant mortality and better nutrition than are overall increases in income".[59] In many countries, women do not have access to the ownership of land. In others (sometimes in the same), they suffer from the unequal distribution of food within households. Yet women play a vital role in the realization of the right to food, since they bear and feed babies and children. For all these reasons, the recognition of the rights of women and the elimination of social, economic and political discrimination against them are preconditions to the realization of the right to food.

80. Social, economic and political discrimination almost invariably has disastrous effects on the food situation of the individuals, families and groups that are discriminated against. Women are not the only ones to suffer. Other particularly vulnerable groups are also affected, such as very young children, the elderly, the disabled, ethnic and religious minorities, indigenous populations, refugees, migrants, displaced persons, permanently unemployed persons without assistance and prison inmates. One example of such discrimination is the practically systematic exclusion from school meals of Gypsy children (Roma and Sinti) in Hungary and Romania.[60] As shown by the Sub-Commission's Special Rapporteur on Extreme Poverty, Leandro Despouy, discrimination (and extreme poverty) is rooted in the very type of development induced by deregulated capitalism. In other words, poor development, exclusion and discrimination exist in the southern countries as in the northern countries (see the Final Report on Human Rights and Extreme Poverty by Mr. Despouy, E/CN.4/Sub.2/1996/13).

V. CONCLUSIONS AND RECOMMENDATIONS

81. As long ago as 1996, at the World Food Summit organized by FAO (Rome, 13-17 November), Kevin Watkins of OXFAM wrote in the British daily the Guardian: "Free trade will never feed the world, on the contrary."[61] Watkins' intuition has been very much substantiated since then and the figures quoted in paragraph 3 above are there to prove it.

82. The United Nations Organization is made up of States. Because of the rapidly spreading globalization of markets and the emergence of powerful transnational oligarchies, the normative power of States has been degenerating at an increasing pace. The NGO Action against Hunger has convincingly demonstrated the causal relationship between the loss of influence of States and the United Nations tragic lack of financial, political and symbolic means.[62] The strategies deployed by well-nigh all-powerful multinational capital are debilitating States more and more. This tendency in turn prevents the United Nations from fulfilling its mission satisfactorily.

83. Jean-Jacques Rousseau wrote: "In the relationship between the weak and the strong, it is liberty that oppresses and the law that liberates." When the State gradually loses its normative power, what is left to oppose the arbitrary forces of globalized markets? Only civil society.

84. Action contre la Faim (France) takes the view that disinterested non-governmental organizations, which are not exposed to lobbying or to the risk of electoral defeat, are the only ones able nowadays to devote themselves entirely to the defence of moral principles, and the only ones able to stand up against the law of the market or the will of the mighty, with one aim in mind: to make the voice of victims heard, to defend their right to life, to security and to recognition.[63] The Special Rapporteur believes that the social movements that make up civil society can fulfil that same social function.

85. At the World Summit for Social Development (June 2000) and again at the Millennium Summit in New York (September 2000), the United Nations Secretary-General courageously drew the conclusion that henceforth the United Nations should give priority in its cooperative endeavours to the social movements and non-governmental organizations that make up international civil society.[64]

86. The Special Rapporteur's mandate follows the same principle, insofar as he is requested "to establish cooperation with ... non-governmental organizations" (resolution 2000/11, paragraph 11 b). Following the strategic guidelines set out by the Secretary-General and in conformity with the Commission's mandate, he will make every effort to cooperate closely with the new social movements and the main NGOs which are currently engaged in the struggle against the unjust order of the world.[65]

87. Time is not an abstract entity. Time is human life. Right now, 826 million human beings are suffering the martyrdom of hunger. The Special Rapporteur recommends that the international community adopt three priority measures to alleviate their suffering immediately, namely:

(a) The State to provide the poorest families with local seed and land for family vegetable gardens;[66]

(b) Daily school meals to be extended to all needy children and meal vouchers to be introduced in compulsory schools;[67]

(c) Basic foods to be State-subsidized and food tickets to be issued to the most deprived.[68]

88. The Special Rapporteur proposes to cooperate closely with the Inter-Parliamentary Union, in particular by participating actively in the training courses for officials of its 140 member parliaments (Presidents, Chairpersons, Secretaries-General, etc.), in order to help promote national legislation on the right to food.

89. He also proposes to establish permanent working relations with the main United Nations organs, programmes and specialized agencies, in order to promote an approach to cooperation projects that is based on the right to food.

90. The Special Rapporteur requests that the Commission on Human Rights grant him the financial means to convene an international seminar of experts, which would be in charge of laying the scientific and pedagogic foundation of a handbook on the right to food. This handbook should contain a kind of checklist of problems, for which legislation needs to be passed in each country in order to guarantee the realization of the right to food.

91. The Special Rapporteur recommends that the Commission pay special attention to the normative and institutional development of the right to food. It would be particularly desirable to endeavour to enshrine the principles set out in General Comment No. 12 in binding legal standards or in international treaties.

92. The Special Rapporteur recommends that the Commission confirm his mandate to respond to reliable information on violations of the right to food, and, in particular, confirm that he is entitled to address urgent requests to Governments responsible for serious violations of the right to food.

93. The Special Rapporteur recommends that the Commission make it clear that the term "food" covers not only solid food but also the nutritional aspects of drinking water.

94. The Special Rapporteur believes that the right to food is of such theoretical and practical importance for the economic, social and cultural development of peoples and individuals that it should be the subject of a General Assembly debate.

Notes

[1] Food and Agriculture Organization of the United Nations, The State of Food Insecurity in the World 2000, Rome, FAO, 2000. The English version is available on the Internet (http://www.fao.org/DOCREP/x8200E). The French version ("L'état de l'insécurité alimentaire dans le monde 2000") is under preparation.

[2] United Nations, Administrative Committee on Coordination, Subcommittee on Nutrition (ACC/SCN), Fourth Report on the World Nutrition Situation: Nutrition throughout the Life Cycle, Geneva, January 2000 (English only).

[3] Régis Debray and Jean Ziegler, Il s'agit de ne pas se rendre, Paris, Editions Arléa, 1994.

[4] FAO, op. cit. (see note 1 above).

[5] Action against Hunger, Information sheet, Paris, December 1997.

[6] UNDP, Human Development Report 2000, De Boeck University for UNDP, 2000.

[7] "International Code of Conduct on the Human Right to Adequate Food". Comments by Hector Faundez, Wenche Barth Eide, Uwe Kracht, Asbjørn Eide, Gerald Moore, Margret Vidar and Ben Watkins, in Notes et Documents: revue de l'Institut international Jacques-Maritain, No. 56, Rome, 1999. A brief summary of the broad outlines of the International Code of Conduct by the Executive Director of FIAN may be found in a report on the right to food by the High Commissioner for Human Rights (E/CN.4/1998/21, para. 18).

[8] A general comment is a sort of authorized exegesis of a treaty, for which it gives a generally accepted interpretation. General Comment No. 12 concerns article 11 of the Covenant (see "Compilation of general comments and general recommendations adopted by human rights treaty bodies" (HRI/GEN/1/Rev.4, 7 February 2000, pp. 57-65)).

[9] "Calorie" is a term used in physics; it is the unit used to measure the amount of energy consumed by the body. For details on the measurement method, see Jean-Pierre Girard, L'Alimentation, Geneva, Georg, 1991.

[10] Iron and zinc are vital for the development of mental abilities. Micronutrients contain other substances too (such as enzymes).

[11] Antenna, "Malnutrition: un massacre silencieux" (unpublished paper), Geneva, 2000 (Antenna, 29 rue de Neuchâtel, 1201 Geneva).

[12] Joachim Ritter and Karlfried Gründer (eds.), Historisches Wörterbuch der Philosophie, Basel, Verlag Schwabe, 1976, vol. 4, pp. 667–669.

[13] Right to Adequate Food as a Human Right, Human Rights Study Series No. 1, United Nations publication (Sales No. E.89.XIV.2), United Nations, New York, 1989. An initial report by Mr. Eide in 1984 (E/CN.4/Sub.2/1984/22 and Add.1 and 2) was followed by the final report submitted in 1987. An interim report updating this study was submitted to the Sub-Commission at its fiftieth session (E/CN.4/Sub.2/1998/9). In 1999, Mr. Eide updated his study with document E/CN.4/Sub.2/1999/12, which, as he points out, should be read in conjunction with the 1998 update.

[14] Interview with Mohamed-Salah Dembri.

[15] Lecture at the University of Geneva on 16 March 2000, entitled "Brazil, 500 years on: identities, growth and inequalities".

[16] Revista Sem Terra, MST, São Paulo, 2nd year, No. 8, September 1999.

[17] See Journal d'ACF, No. 7, Paris, March 2000.

[18] Press conference given in Paris on 18 January 1999, quoted by Libération, Paris: "The United Nations is guilty of genocide in Iraq".

[19] Speech at the Millennium Summit of the United Nations, New York, September 2000.

[20] El Hadji Guissé, Sub-Commission expert, is particularly interested in the right to access to drinking water and sanitation services and has done some valuable work on that aspect (E/CN.4/Sub.2/1998/7, a document supplemented by the annex to the note by the Secretariat contained in E/CN.4/Sub.2/2000/16).

[21] Ludwig Feuerbach, Manifestes philosophiques, translated into French by Louis Althusser, Paris, Presses universitaires de France, 1960, pp. 57-58.

[22] See, in particular, the origin of this theory put forward by Sergio Vieira de Mello in his inaugural lecture at the Graduate Institute of International Studies, Geneva, on 2 November 2000, entitled "Consciousness of the world: the United Nations faced with the irrational in history".

[23] See also Eide, op. cit., para. 52 (see note 13 above).

[24] Report of the World Food Conference (E/CONF.65/20), United Nations publication (Sales No. 75.II.A.3), United Nations, New York, 1975, Part One, chapter I.

[25] International Convention on the Elimination of All Forms of Racial Discrimination (1965), ratified by 156 States; art. 5 (e).

[26] Convention on the Elimination of All Forms of Discrimination against Women (1979), ratified by 165 States; arts. 11-14.

[27] Convention on the Prevention and Punishment of the Crime of Genocide (1948), ratified by 130 States; art. II (c).

[28] International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), ratified by 101 States; art. II (b) and (c).

[29] Convention (No. 99) concerning Minimum Wage Fixing Machinery in Agriculture (1951) and Convention (No. 131) concerning Minimum Wage Fixing with Special Reference to Developing Countries (1970).

[30] Convention (No. 102) concerning Minimum Standards of Social Security (1952) and Convention (No. 117) concerning Basic Aims and Standards of Social Policy (1962).

[31] Convention (No. 105) concerning the Abolition of Forced Labour (1957).

[32] Convention (No. 107) concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (1957) and Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries (1989).

[33] Convention (No. 138) concerning Minimum Age for Admission to Employment (1973) and Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

[34] See Carlos Villan Duran, "Contenu et portée du droit à l'alimentation dans le droit international", in Terre des Hommes France, Halte à la mondialisation de la pauvreté, Paris, Editions Karthala, 1998, pp. 198-199.

[35] See "The right to food in national constitutions", in FAO, The right to food in theory and practice, Rome, 1998, pp. 42-43 (English only).

[36] Inter-Parliamentary Union and International Committee of the Red Cross, Respect for International Humanitarian Law, Handbook for Parliamentarians No. 1, 1999, Geneva, IPU and ICRC, 1999, 104 pages.

[37] See paragraphs 6 and 7 of the Universal Declaration on Democracy adopted by the General Conference of the Inter-Parliamentary Union (Cairo, 11-16 September 1997). The text of the Declaration appears in document A/52/437, Annex IV.

[38] See "Report on the First International Encounter on the Right to Food and Nutrition: Review and Outlook" (64-page mimeographed document), page 4. This first encounter was organized in Oslo, from 18-21 June 2000, by The International Project on the Right to Food in Development (Oslo University) in conjunction with the World Alliance for Nutrition and Human Rights (WANAHR), the FoodFirst Information and Action Network (FIAN) and the International Jacques-Maritain Institute (Rome). A second encounter was held in Geneva, on 21 and 22 August 2000, jointly organized with the Office of the High Commissioner for Human Rights and the Working Group on Nutrition, Ethics and Human Rights of the ACC/SCN.

[39] Jens Schulthes, "Ist 'Ernährungssicherung' als Ziel von Entwicklungszusammenarbeit in Zukunft noch realistisch?" FIAN, Entwicklung und ländlicher Raum, No. 5, 2000, pages 29-31 (summary in English).

[40] Action contre la Faim (Coordinated by Sylvie Brunel), Géopolitique de la faim - Edition 2001, Paris, Presses Universitaires de France, 2000. English language readers may refer to the translation in English of the second French edition (October 1999), which was brought out by Action against Hunger - United States, under the title The Geopolitics of Hunger, 2000-2001: Hunger and Power (Boulder, Colorado, and London, Lynne Rienner Publishers, 2000, 354 pages). Spanish speakers may consult the second edition in a book published by Acción contra el Hambre (Madrid) entitled Geopolítica del Hambre - Cuando el hambre es un arma ... Informe 2000, Madrid, Icaria editorial, 1999, 355 pages.

[41] Ibid., p. 13. UNDP alone lost US$ 500 million in contributions between 1993 and 2000.

[42] OECD Council at Ministerial level, final communiqué "Shaping globalization", Paris, 27 June 2000.

[43] The 1974 World Food Conference found a direct link between the debt burden and malnutrition. On the basis of more up-to-date figures, the Jubilee 2000 campaign arrives at the same conclusion (see Web site http://www.jubilee2000uk.org).

[44] United Nations Children's Fund, Children in Jeopardy: The challenge of freeing poor nations from the shackles of debt, New York, UNICEF, 1999, p. 5. This document is also available in English only at the following address: www.unicef.org/pubsgen/debt/debt.pdf.

[45] World Bank, World Development Report 2000/2001 - Attacking Poverty, Paris, Editions Eska for the World Bank, September 2000.

[46] UNCTAD, The least developed countries - 2000 report (United Nations publication, sales No. F.00.II.D.21), United Nations, Geneva, 2000.

[47] Transgenic crops imply genetic transfers between different plants (GMOs), which make it possible to transfer specific qualities from one species to another.

[48] In chapter 10 of its World Development Report 2000/2001 (see note 45 above) entitled "Harnessing Global Forces for Poor People", the World Bank, referring back to the UNDP's 1999 Human Development Report, comments that current trends are worrying for third world countries for three reasons: 97 per cent of GMO patents are held by northern countries; the great majority of patents are held by private companies and laboratories, and not by public research centres, which makes any government monitoring difficult; thirdly, Trade-Related Aspects of Intellectual Property Rights (TRIPS) can sometimes prevent farmers from reusing harvested seed. The question of TRIPS concerns not only WTO but also WIPO.

[49] See Shiva, V., "Biotechnological Development and the Conservation of Biodiversity", in Shiva, V. and Moser, I. (eds.). Biopolitics: A Feminist and Ecological Reader on Biotechnology. London, Zed Books, 1995.

[50] See the article "Serb charged over role in Sarajevo siege", The Independent, London, 2 March 1996.

[51] Stephen, Theories of Famine, New York, Harvester Wheatsheaf, 1993.

[52] Young, E.M., World Hunger, London, Routledge Ltd., 1997. The problem of unequal distribution is getting worse: the financing of humanitarian organizations in 2000 was disastrous. Only 55 per cent of operations planned by the United Nations were covered. The Office of the High Commissioner for Refugees has already cut several programmes in Africa. The International Committee of the Red Cross is also short of US$ 20 million in its budget. On 29 November 2000, the United Nations launched an appeal for US$ 2 billion to bring aid to 35 million persons: the Secretary-General pointed out that this sum represented less than one day of military expenditure in the world.

[53] Machel, Graça, "The Impact of Armed Conflict on Children - a critical review of progress made and obstacles encountered in increasing protection for war-affected children", produced by the International Conference on War-Affected Children (Winnipeg, Canada, September 2000), chapter 6: The toll from malnutrition and disease. Document available on the Internet at http://www.war-affected-children.org/machel-f.asp.

[54] Jean-Bawoyeu Alingué, opposition deputy, "Les réfugiés de la faim", Le Temps, Geneva, 30 November 2000.

[55] World Bank. Report 2000/2001 (see note 45 above), chapter 3, box 3.8.

[56] Ibid., chapter 3 "Growth, Inequality and Poverty"; chapter 4 "Making markets work better for poor people"; chapter 5 "Expanding poor people's assets and tackling inequalities".

[57] Amartya Sen, L'Economie est une science moral, Paris La Découverte, 1999.

[58] ACC/SCN, loc. cit. (see note 1 above), p. iv, para. 1.

[59] United Nations Children's Fund, The State of the World's Children 1998, UNICEF, Geneva, 1998 (Sales No.: F-97.XX.SWZ.3), pp. 39 and 45.

[60] See Médecins du Monde, "Situations sanitaires et sociales des Tziganes en Europe", records of the International Colloquy held on 2 November 2000 at the University of Neuchâtel (Switzerland).

[61] A French version of the article appeared in Courrier international, Paris, No. 315, 14-20 November 1996.

[62] Geopolitics of Hunger (see note 40 above), p. 13.

[63] Ibid., pp. 38 and 40.

[64] See the Secretary-General's opening speech to the special session of the United Nations General Assembly (Geneva, 26 June 2000). See also the report "2000. A Better World for All. Progress towards the international development goals", prepared jointly by the United Nations, the World Bank, the International Monetary Fund and the Organization for Economic Cooperation and Development, presented by the United Nations Secretary-General on 26 June 2000 in Geneva (this report may be consulted at the following Web address www.paris21.org/betterworld).

[65] The heterogeneous and chiefly spontaneous coalition of movements and organizations, which met in Seattle in December 1999, has in the meantime become organized, thanks to the Association for the Taxation of Financial Transactions for the Aid of Citizens (ATTAC-France) and the monthly Le Monde diplomatique. An international secretariat is now operating in Paris and a common platform is being prepared (December 2000). This set of claims known as the "World Forum for Alternatives" will be presented at the World Social Forum, the first world anti-Davos summit, held in Porto Alegre (State of Rio Grande do Sul, Brazil) from 26 to 30 January 2001.

[66] In the unpublished study "Malnutrition: un massacre silencieux" (see note 11 above), Antenna quotes figures on the progress achieved thanks to family gardens.

[67] This was recommended by UNICEF. In India, such meals benefit 125 million children. Some states in Brazil (such as the District of Brasilia) have introduced a system which is effective against both child labour and malnutrition and undernourishment. Families that agree to send their children to school are given a "meal voucher" for each day each child spends in school.

[68] In India, almost 20 million households receive a "ration card".